



# UNITED STATES PATENT AND TRADEMARK OFFICE

cel

UNITED STATES DEPARTMENT OF COMMERCE  
United States Patent and Trademark Office  
Address: COMMISSIONER FOR PATENTS  
P.O. Box 1450  
Alexandria, Virginia 22313-1450  
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/691,207	10/22/2003	Wesley J. Dupeire	9400-55	5655
39072	7590	08/01/2005		
MYERS BIGEL SIBLEY & SAJOVEC, P.A. P.O. BOX 37428 RALEIGH, NC 27627				
			EXAMINER	
			NGUYEN, TAI T	
			ART UNIT	PAPER NUMBER
			2632	

DATE MAILED: 08/01/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	Application No. 10/691,207	Applicant(s) DUPEIRE, WESLEY J.	
	Examiner Tai T. Nguyen	Art Unit 2632	

**-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --**

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 27 May 2005.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-20,27,28 and 30-40 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-20,27,28 and 30-40 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)  | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                                   | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____  |

**DETAILED ACTION**

***Claim Rejections - 35 USC § 103***

1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

2. Claims 1-5, 14-19, and 37-38 are rejected under 35 U.S.C. 103(a) as being unpatentable over Sanders et al. (US 5,663,711).

**Regarding claims 1 and 37,** Sanders et al. disclose a self-contained power disruption alert device (figure 1), comprising:

a housing (10) with a plurality of male conductors (26, 28) extending outwardly therefrom, the male conductors sized and configured to enter an electrical wall outlet to be in electrical communication therewith (col.2, lines 1-18);

an electronic circuit (figures 3-4) in the housing and configured to response to a power disruption in the electrical wall outlet (figure 3, col. 2, lines 59-65);

a battery receiving space disposed on the housing and sized and configured to hold a battery (54) to be in electrical communication with the electronic circuit to power the electronic circuit (col. 2, lines 42-47); and

a speaker (48) in communication with the electronic circuit, wherein, in operation, an audible alert is output by the speaker when power to the electrical wall outlet is disrupted (figure 3, col. 2, lines 32-38).

Sanders et al. disclose the instant claimed invention except for the device being a single-use device that is disposable after a power disruption. It would have been obvious to a person having ordinary skill in the art at the time the invention was made to dispose the device after the power disruption occurs for the purpose of preventing failure detecting situation because when the power is disrupted, that may destroy the system and it will not work like normal. Furthermore, if and when the user decides to dispose the device after a single use based on the power disruption occurred, the user could dispose the device because it is user's choice to do so.

**Regarding claim 2,** Sanders et al. disclose the instant claimed invention except for the battery being releaseably. Sanders et al. disclose the battery (54) for supplying power to the circuit when the power is power is failure and the battery being replaced when the voltage is less than a threshold value, it would have been obvious to a person having ordinary skill in the art at the time the invention was made to use a releaseably mountable battery for the purpose of replacing when the battery is dead.

**Regarding claim 3,** Sanders et al. fail to disclose the housing being portable and useable in different wall outlets as desired by a user. Since Sanders et al. disclose the device being a self-contained having its own male conductors configured to connect into the usual wall mounted electrical outlet receptacle (col. 2, lines 10-14), it would have been obvious to a person having ordinary skill in the art at the time the invention was made to know that the device (10) being portable and useable in different wall outlets as desired by a user.

**Regarding claim 4**, Sanders et al. disclose the device (10) generating an audible alert signal locally when the power is disrupted (col. 2, lines 35-38).

**Regarding claim 5**, Sanders et al. disclose the device further comprising a female electrical outlet (30, 32) disposed on the housing, the female electrical outlet being sized and configured to receive male conductors therein and electrically connected the male conductors to the wall electrical outlet (col. 2, lines 19-31).

**Regarding claims 14-15**, Sanders et al. disclose the instant claimed invention except for a visual alert device being configured to visually indicate when power disruption occurs. Since Sanders et al. disclose a visual indicator (LED 46, figure 1) configured to visually indication of the presence of power (col. 2, lines 32-35), it would have been obvious to a person having ordinary skill in the art at the time the invention was made to design the visual alert device being configured to visually indicate to delay generating of the audible alert when power disruption occurs instead of providing indication of the presence of power for the purpose of alerting user the condition of power disruption.

**Regarding claims 16-17**, Sanders et al. disclose the housing has a forward surface (12), back surface (14), and a side surfaces (16, 18), and a bottom surfaces (20, 22) forming a box-like enclosure, wherein the housing is constructed of a suitable molded plastic (figures 1-2, col. 2, lines 1-9). Sanders et al. disclose the claimed invention except for forward surface with a height and width defining a surface area is less than 14 sq. inches, height and width less than 3 inches, and a depth of less than 1 inch. It would have been an obvious matter of design choice to design a forward

Art Unit: 2632

surface with a height and width defining a surface area is less than 14 sq. inches, height and width less than 3 inches, and a depth of less than 1 inch, and the device without a battery weighs less than 8 ounces, since such a modification would have involved a mere change in the size of a component. A change in size is generally recognized as being within the level of ordinary skill in the art. In re Rose, 105 USPQ 237 (CCPA 1955).

**Regarding claims 18-19**, refer to claims 1 and 16-17 above, Sanders et al. fail to disclose the device without a battery weighs less than 8 ounces. It would have been an obvious matter of design choice to design a forward surface with a height and width defining a surface area is less than 14 sq. inches, height and width less than 3 inches, and a depth of less than 1 inch, and the device without a battery weighs less than 8 ounces, since such a modification would have involved a mere change in the size of a component. A change in size is generally recognized as being within the level of ordinary skill in the art. In re Rose, 105 USPQ 237 (CCPA 1955).

**Regarding claim 38**, refer to claims 1 and 33, Sanders et al. disclose everything claimed except the specific length of the predetermined time duration. The specific length of the predetermined time duration would have been obvious design consideration based on the equipment in which the device is intended to be used.

3. Claims 6-9 and 39-40 are rejected under 35 U.S.C. 103(a) as being unpatentable over Sanders et al. in view of Malmsten (US 6,229,450).

**Regarding claims 6-8,** Sanders et al. disclose the instant claimed invention except for a timers being in communication with the electronic circuit configured to determine a duration of the power disruption and being externally viewable display for providing a numerical value of the duration of the power disruption. Malmsten teaches a power interruption monitoring system (figure 1) having a timer (16) including a digital viewable display (col. 2, lines 10-48), wherein the timer being configured to determine a duration of the power disruption (col. 3, lines 1-8). Therefore, it would have been obvious to a person having ordinary skill in the art at the time the invention was made to use the timer with externally viewable display as taught by Malmsten in the system as disclosed by Sanders et al. for the purpose of providing viewable indicating the timing (hours and minutes) the duration of power disruption to an user in order to visually indicating the time duration of the power disrupting.

**Regarding claim 9,** Sanders et al., as modified, fail to disclose the display configured to output the power disruption duration in days. It would have been obvious to a person having ordinary skill in the art at the time the invention was made that the display timer can be modified to display duration of the power disruption in days, as desired by a user, for displaying duration of power disruption for the purpose of providing day of the event occurs.

**Regarding claims 39-40,** refer to claims 1 and 6-8 above. Malmsten further discloses a user input button (38) to display of the length of each of the outage event (col. 2, lines 27-48).

4. Claims 12-13, 22, and 30-36 are rejected under 35 U.S.C. 103(a) as being unpatentable over Sanders et al. in view of Nykerk (US 4,987,402).

**Regarding claims 12-13**, refer to claim 1 above, Sanders et al. disclose the instant claimed invention except for electronic memory having at least one prerecorded message that being transmitted/output during a power disruption. Nykerk teaches a security system (see abstract) includes an electronic memory in a voice synthesizer (84, col. 11, lines 34-45) having a plurality of prerecorded messages that being transmitted/output during various alert conditions (col. 3, lines 67 through col. 4, line 27). Therefore, it would have been obvious to a person having ordinary skill in the art at the time the invention was made to use the design as taught by Nykerk in the system as disclosed by Sanders et al., as modified, for the purpose of providing a plurality prerecorded messages to alert the user during various states of power disruption.

**Regarding claims 22 and 32**, the claimed method steps would have been inherent in the product structure as stated in claims 1 and 12 above.

**Regarding claim 30**, Sanders et al. disclose the instant claimed invention except for the step of providing a visual alert device being configured to visually indicate when power disruption occurs. Since Sanders et al. disclose a visual indicator (LED 46, figure 1) configured to visually indication of the presence of power (col. 2, lines 32-35), it would have been obvious to a person having ordinary skill in the art at the time the invention was made to design the visual alert device being configured to visually indicate to delay generating of the audible alert when power disruption occurs instead of



providing indication of the presence of power for the purpose of alerting user the condition of power disruption.

**Regarding claim 31**, Sanders et al. disclose the housing has a forward surface (12), back surface (14), and a side surfaces (16, 18), and a bottom surfaces (20, 22) forming a box-like enclosure, wherein the housing is constructed of a suitable molded plastic (figures 1-2, col. 2, lines 1-9). Sanders et al. disclose the claimed invention except for the step of providing a forward surface with a height and width defining a surface area is less than 14 sq. inches, height and width less than 3 inches, and a depth of less than 1 inch. It would have been an obvious matter of design choice to design a forward surface with a height and width defining a surface area is less than 14 sq. inches, height and width less than 3 inches, and a depth of less than 1 inch, and the device without a battery weighs less than 8 ounces, since such a modification would have involved a mere change in the size of a component. A change in size is generally recognized as being within the level of ordinary skill in the art. In re Rose, 105 USPQ 237 (CCPA 1955).

**Regarding claim 33**, Sanders et al. further disclose the generating of audible alert including the step of delaying the alert until power is disrupted greater than a predetermined time duration (see abstract).

**Regarding claim 34-36**, Sanders et al., as modified, disclose the steps providing various alerts dependent upon the alarm triggering conditions. The specific triggering conditions and type of alerts would have been an obvious design consideration based on the magnitude of the necessary alert.

5. Claim 10-11 and 27-28 are rejected under 35 U.S.C. 103(a) as being unpatentable over Sanders et al., as modified, as applied to claim 12 above, and further in view of Malmsten.

**Regarding claims 10-11,** Sanders et al., as modified, disclose the instant claimed invention except for processor controlled timer(s) being in communication with the electronic circuit configured to determine a duration of the power disruption and being externally viewable display for providing a numerical value of the duration of the power disruption and a reset button therefore. Malmsten teaches a power interruption monitoring system (figure 1) having a timer (16, figure 1) including a digital viewable display (col. 2, lines 10-48), wherein the timer being configured to determine a duration of the power disruption (col. 3, lines 1-8) and a reset button (32) therefore. Therefore, it would have been obvious to a person having ordinary skill in the art at the time the invention was made to use the timer with externally viewable display and reset as taught by Malmsten in the system as disclosed by Sanders et al., as modified, for the purpose of providing viewable indicating the timing (hours and minutes) the duration of power disruption to an user in order to visually indicating the time duration of the power disrupting and enabling clearing of the display after the interruption.

**Regarding claims 27-28,** Sanders et al., as modified, disclose the instant claimed invention except for timers being in communication with the electronic circuit configured to determine the duration of the power disruption and being externally viewable display for providing a numerical value of the duration of the power disruption. Malmsten teaches a power interruption monitoring system (figure 1) having a timer (16)

including a digital viewable display (col. 2, lines 10-48), wherein the timer being configured to determine a duration of the power disruption (col. 3, lines 1-8). Therefore, it would have been obvious to a person having ordinary skill in the art at the time the invention was made to use the timer with externally viewable display as taught by Malmsten in the system as disclosed by Sanders et al., as modified, for the purpose of providing viewable indicating the timing (hours and minutes) the duration of power disruption to an user in order to visually indicating the time duration of the power disrupting.

6. Claim 20 is rejected under 35 U.S.C. 103(a) as being unpatentable over Sanders et al. (US 5,663,711) and in view of Nordling (US 2002/0118498).

**Regarding claim 20,** Sanders et al. disclose the instant claimed invention except for the device is configured to connect to a wall panel outlet having a GFI circuit. Nordling teach a method of conversion electrical outlets to GFI outlets (paragraphs 22-24). Therefore, it would have been obvious to a person having ordinary skill in the art at the time the invention was made to use the method as taught by Nordling in the system as disclosed by Sanders et al. for the purpose of conversion the conventional electrical outlets to GFI outlets in order to protect appliances connected thereto.

7. Claim 23 is rejected under 35 U.S.C. 103(a) as being unpatentable over Sanders et al., as modified, as applied to claim 22 above, and further in view of Nordling.

**Regarding claim 23**, Nordling further discloses a method of conversion electrical outlets to GFI outlets (paragraphs 22-24). Therefore, it would have been obvious to a person having ordinary skill in the art at the time the invention was made to use the method as taught by Nordling in the system as disclosed by Sanders et al., as modified, for the purpose of conversion the conventional electrical outlets to GFI outlets in order to protect appliances connected thereto.

### ***Response to Arguments***

8. Applicant's arguments with respect to claims 1-20, 22-23, 27-28, and 30-33 have been considered but are moot in view of the new ground(s) of rejection.

### ***Conclusion***

9. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Tai T. Nguyen whose telephone number is (571) 272-2961. The examiner can normally be reached on Monday-Friday from 7:30am-5:00pm..

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Daniel J. Wu can be reached on (571) 272-2964. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

A handwritten signature in black ink, appearing to read 'Tai T. Nguyen', with a long horizontal flourish extending to the right.

Tai T. Nguyen  
Examiner  
Art Unit 2632

July 12, 2005